



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.11.2021

CORAM :

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THE HONOURABLE MRS.JUSTICE S.ANANTHI

C.M.A. (MD) .Nos.159, 160, 161 and 162 of 2019

and

C.M.P. (MD) Nos.2143, 2144, 2145 and 2146 of 2019

The Managing Director,
Tamil Nadu Transport Corporation Ltd.,
Chennai,
Having Office at Chennai-1. ...Appellant/1st Respondent in all CMAs.

Vs.

1.Kalyanasundaram ...1st Respondent/Petitioner in
CMA (MD) No.159 of 2019

2.Umamaheswari ...1st Respondent/Petitioner in
CMA (MD) No.160 of 2019

3.Saravanan ...1st Respondent/Petitioner in
CMA (MD) No.161 of 2019

4.Minor Rishikeswaran ...1st Respondent/Petitioner in
CMA (MD) No.162 of 2019

Rep. By his father & natural Guardian Saravanan

5.R.Yokesh

6.The Branch Manager,

Oriental Insurance Company Ltd.,

Having Office at

Trichy - 3.

...2nd & 3rd Respondents/2nd & 3rd
Respondents in all CMAs

COMMON PRAYER : Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the award and decree made in M.C.O.P.Nos.237, 238, 239 and 244 of 2012, dated 29.10.2018 on the file of the Motor Accident Claims Tribunal/Principal Sub Court, Kumbakonam.

In All CMAs.

For Appellant :Mr.P.Prabhakaran

For R-1 :Mr.A.Thiruvadikumar

For R-2 :Mr.G.Gomathi Sankar

For R-3 :Mr.C.Jawahar Ravindran



COMMON JUDGMENT

The appellant/ Transport Corporation is the first respondent in M.C.O.P.Nos.237, 238, 239 and 244 of 2012. Challenging the award of the Tribunal fixing the negligence on the first respondent, the driver of the bus and directing the appellant to pay the compensation to the first respondent in all CMAs, the present civil miscellaneous appeals are filed.

2.It is a case of accident, which took place on 14.11.2010, at about 10.30 p.m. the first respondent in all CMAs/petitioner in all M.C.O.Ps were travelling in TATA Indica Car (Taxi) bearing Registration No.TN-68-A-1819 from Kumakonam to Thiruvannamalai, while moving right in Trichy - Chennai Bypass road coming from the Kallani road towards East to West and then going towards the North at about 1.00 a.m., a bus which was coming near ARC Parcel service on opposite direction in rash and negligent manner without applying horn dashed against the car. Due to the said accident, the claimants sustained grievous injuries.

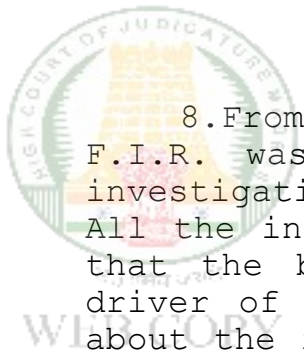
3.The claimants have filed petitions in M.C.O.P.Nos.237, 238, 239 and 244 of 2012 on the file of the Motor Accident Claims Tribunal/Principal Sub Court, Kumbakonam, seeking compensation.

4.Before the Tribunal, on the side of the claimants four witnesses were examined as P.W.1 to P.W.4 and forty two documents were marked as Exs.P.1 to P.42 and on the side of the respondents, three witnesses were examined as R.W.1 to R.W.3 and two documents were marked as Ex.R1 and Ex.R2.

5.The Tribunal, after considering the pleadings, oral and documentary evidences and the arguments of the counsel for the claimants and the respondents and also on appreciating the evidences on record, held that the accident occurred only, due to the rash and negligent driving of the bus and directed the appellant herein to pay compensation. Against which, the appellant/first respondent has filed these present appeals to set aside the award of compensation passed by the Tribunal.

6.Heard the learned counsel for the appellant and the learned counsel appearing for the respondents and perused the materials available on record.

7.According to the learned counsel for the appellant, the offending vehicle TATA India Car (Taxi) was responsible for the accident. But the Tribunal has fixed liability only on the appellant/Transport Corporation. The compensation awarded by the Tribunal is excessive.



8.From the materials available on record, it is seen that F.I.R. was registered against the driver of the bus and after investigation final report has also been filed and marked as Ex.P3. All the injured persons are eye witnesses stated in their evidence that the bus driver is responsible for the accident. Even the driver of the bus, who was examined as R.W.1, has not stated about the rash and negligent of the TATA Indica Car (Taxi). So in all aspect, the Tribunal rightly fixed the liability on the driver of the bus.

9.The Tribunal, after considering all the facts, held that the accident occurred only due to the rash and negligent driving of the driver of the bus and rightly fixed liability on the appellant/Transport Corporation. There is no error in the said finding. As far as quantum of compensation is concerned, the amount awarded by the Tribunal is not excessive.

10.Considering all the materials on record in entirety, this court is of the view that there is no error to interfere with the award of the Tribunal.

11.In the result,

(i)The Civil Miscellaneous Appeals are dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

(ii)The appellant /Tamilnadu Transport Corporation Ltd., is directed to deposit the compensation awarded by the Tribunal together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of M.C.O.P.Nos.237, 238, 239 and 244 of 2012 on the file of the Motor Accident Claims Tribunal/Principal Sub Court, Kumbakonam within a period of six weeks from the date of receipt of a copy of this order.

(iii)On such deposit being made, except minor, other claimants are entitled to withdraw the same, by filing necessary application before the Tribunal.

Sd/-

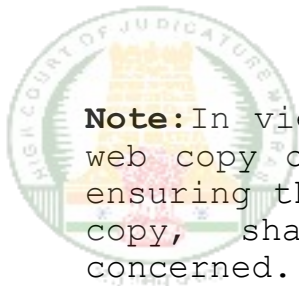
Assistant Registrar (AS)

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Sub Assistant Registrar(CS)

vsd



Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

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TO

1.The Principal Subordinate Judge
The Motor Accident Claims Tribunal/Principal Sub Court,
Kumbakonam, Thanjavur District

2. The Record Keeper, (2C)
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.G. GOMATHISANKAR, Advocate (SR-35508[F] dated 23/11/2021)

+4 CC to M/s.K. VEILMUTHU, Advocate (SR-35531[F], 35532, 35533, 35534 dated 23/11/2021)

+4 CC to M/s.P. PRABHAKARAN, Advocate (SR-35708[F], 35707, 35706, 35704 dated 24/11/2021

C.M.A. (MD) .Nos.159, 160, 161 and 162 of 2019
and

C.M.P. (MD) Nos.2143, 2144, 2145 and 2146 of 2019
23.11.2021

PK (CO)

KB (09.02.2022) 4P 13C